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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,646	09/29/2003	Mark A. Loschiavo	LOS-US1	6073
37311	7590	12/09/2004	EXAMINER	
LORETTA F. SMITH 35 SOUTH WHITE HORSE PIKE #207 AUDUBON, NJ 08106			GRAHAM, MARK S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/675,646

**Applicant(s)**LOSCHIAVO, MARK A. **Examiner**

Mark S. Graham

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolan.

Nolan's belt discloses the claimed structure and is capable of being used to add weight to a hockey stick blade. As Nolan points out at page 3, paragraph 32 other known types of fasteners may be used in his invention. The examiner takes official notice that fasteners such as buckles, buttons, and adhesive tapes are commonly known. Such would obviously have been suitable for use as Nolan's fastener in light of Nolan's disclosure that other fasteners may be used if such were preferred by the ordinarily skilled artisan.

Nolan's pouches may be considered the means for securing the at least one weight.

Regarding claim 11, Nolan's casing pockets are formed from two sheets of material sewn together. However, the examiner takes official notice that it is also commonly known to form pockets by folding a single sheet over and sewing it together to form the pocket. It would have been obvious to one of ordinary skill in the art to have used this common sewing technique to eliminate the need to cut two separate pieces of material. It has been noted that applicant has not disputed that such sewing techniques are known. The argument about what applicant discloses as far as sewing techniques is not relative to the issue of whether such a technique would have been obvious in view of Nolan and what is commonly known in sewing pockets.

Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolan in view of Loschiavo. Nolan obviates the claimed method for the reasons explained above with the

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exception of the type of implement used. However, as disclosed by Loschiavo it is known in the hockey stick art to weight a blade for training purposes. Further Loschiavo discloses the use of a weight 24 within the surface area of the blade just as Nolan's weights are with in the surface area of the bat. In view of Loschiavo's teaching it would have been obvious to one of ordinary skill in the art to have practiced Nolan's method on a hockey stick blade as well.

In response to applicant's argument that Nolan does not specifically address the use of his device on a hockey stick it is pointed out as applicant acknowledges that the weight may be used on other implements. As Loschiavo clearly teaches it is known to use such weights on the blade of the stick, not the handle. Therefore there would not have been motivation, in view of Loschiavo, to use the weights on the handle as suggested by applicant. Such would be the equivalent of using the weights on the handle of a baseball bat which is the opposite of what Nolan teaches.

Applicant's arguments filed 10/20/04 have been fully considered but they are not persuasive.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

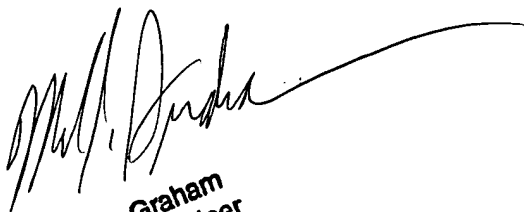
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG  
12/6/04



Mark S. Graham  
Primary Examiner